



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO, CA 92130-2332

COPY MAILED

FEB 28 2005

OFFICE OF PETITIONS

| | | |
|--------------------------------|---|----------------------|
| In re Application of | : | |
| McCarthy et al. | : | |
| Application No. 09/754,949 | : | DECISION ON PETITION |
| Filed: January 4, 2001 | : | |
| Attorney Docket No. SCIOS.012A | : | |

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)," filed August 24, 2004. For the reasons set forth herein, the petition is properly considered as a petition under § 1.181 to withdraw the holding of abandonment.

The petition under § 1.181 is **GRANTED**.

By notice mailed July 2, 2003, the above-identified application was held abandoned for failure to timely submit new drawings in response to the Notice of Allowability mailed December 12, 2002¹. On August 28, 2003, applicants filed a petition to withdraw holding of abandonment. Having received no response to the petition, petitioners filed the instant petition (and petition fee) under § 1.137(a).

The petition has been considered, and the prosecution history reviewed, and it has been determined that withdrawal of the holding of abandonment is warranted. Petitioners did not fail to timely respond to either the notices mailed December 12, 2002 or

¹ PALM records indicate that the Issue Fee was timely received on March 17, 2003 (with certificate of mailing dated March 11, 2003).

the subsequent requirement mailed April 21, 2003. Specifically, the record confirms that:

1. In response to the Notice of Allowance and Notice of Allowability both mailed December 12, 2002, the corrected drawings, issue fee, publication fee and notice of loss of entitlement to small entity status were timely filed on March 17, 2003. These papers are of record with a date of receipt thereon of March 17, 2003. The papers received include a properly itemized transmittal with a certificate of mailing pursuant to § 1.8(b) thereon signed by attorney of record James Mullen and dated March 11, 2003.
2. The responses filed March 17, 2003 constitute a complete reply to the notices. It is specifically noted that the new drawings have been found acceptable by the draftsman.
3. Likewise, in response to the Notice To File Corrected Application Papers mailed April 21, 2003, applicants timely filed a response on May 9, 2003. By Office action mailed May 21, 2004, the examiner advised applicants that the amendment had been entered.

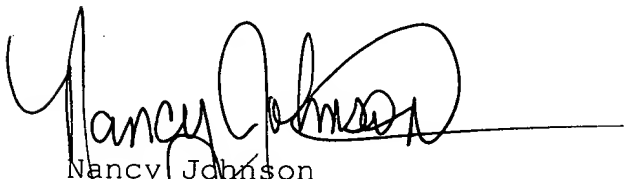
In view thereof, the notice of abandonment mailed July 2, 2003 is hereby vacated, and the holding of abandonment is hereby WITHDRAWN.

Since consideration of the petition under § 1.137(a) is unnecessary for the reasons cited, the petition fee (\$110) will be refunded to Deposit Account No. 03-1952, as authorized.

Receipt of notification of loss of small entity status filed March 17, 2003 is acknowledged and made of record.

The application file is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.


Nancy Johnson
Senior Petitions Attorney
Office of Petitions